

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PERNOD RICARD USA, LLC,)
Plaintiff,)
v.) C.A. No. 06-505 (SLR)
BACARDI U.S.A., INC.,)
Defendant.)

DEFENDANT'S MOTION TO DISMISS UNDER RULE 12(b)(6)

Defendant Bacardi U.S.A., Inc. ("Bacardi"), by and through its undersigned attorneys and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, hereby moves this Court for an order dismissing Count II of the Complaint in above-captioned action. The grounds for this motion are set forth in Bacardi's Opening Brief in Support of Defendant's Motion to Dismiss under Rule 12(b)(6), filed contemporaneously herewith.

Respectfully submitted,

Of Counsel:

Eugene D. Gulland
Oscar M. Garibaldi
Emily Johnson Henn
Jenny C. Ellickson
COVINGTON & BURLING LLP
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: (202) 662-6000
Facsimile: (202) 662-6291

William R. Golden, Jr.
Michelle M. Graham
Matthew Marcotte
KELLEY DRYE & WARREN LLP
101 Park Avenue
New York, NY 10178
Telephone: (212) 808-7800
Facsimile: (212) 808-7897



William J. Wade (#704)
Anne Shea Gaza (#4093)
Richards, Layton & Finger, P.A.
wade@rlf.com
gaza@rlf.com
One Rodney Square
920 North King Street
Wilmington, DE 19801
Telephone: (302) 651-7718
Facsimile: (302) 498-7718
Attorneys for Defendant
Bacardi U.S.A., Inc.

Dated: September 22, 2006

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

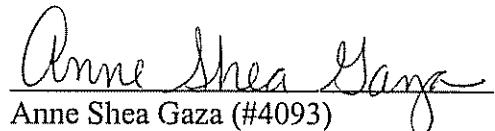
CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2006, I caused to be served by hand delivery the foregoing document and electronically filed the same with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

Jack B. Blumenfeld
Rodger D. Smith, II
MORRIS, NICHOLS, ARSHT & TUNNELL LLP
1201 N. Market Street
P.O. Box 1347
Wilmington, DE 19801

I hereby certify that on September 22, 2006, I have sent by Federal Express the foregoing document to the following non-registered participants:

Herbert F. Schwartz
Vincent N. Palladino
Pablo D. Handler
ROPES & GRAY LLP
1251 Avenue of the Americas
New York, NY 10020


Anne Shea Gaza (#4093)
Gaza@rlf.com
Richards, Layton & Finger, P.A.
One Rodney Square
P.O. Box 551
Wilmington, Delaware 19899
(302) 651-7700